

House File 2365 - Introduced

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A BILL FOR

1 An Act relating to residences in proximity to confinement
2 feeding operations and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 459.201, Code 2009, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6. "*Residence*" means a building, and the
4 land it is located on, including all structures attached to or
5 appurtenant to the building, if the building is used as a place
6 of human habitation on a permanent and frequent basis, is not
7 readily mobile, is assessed and taxed as real property, and
8 meets all of the following criteria:

9 a. The building must be occupied as a domicile.

10 (1) The building is occupied as a domicile, if all of the
11 following criteria have been satisfied:

12 (a) The building has been occupied by humans for more than
13 six months in the last two years.

14 (b) The building has not been constructed or moved to its
15 current location within the previous six months.

16 (2) Any requirement of subparagraph (1) does not apply if a
17 preponderance of evidence shows that the building is a person's
18 permanent home and that person returns to the building after
19 any temporary absence. Any person providing evidence under
20 this subparagraph has the burden of proof.

21 b. (1) The building is permanently connected to a basic
22 utility that normally provides for the uninterrupted delivery
23 of all of the following:

24 (a) Electricity.

25 (b) Drinking or sanitary water.

26 (c) Human sewage disposal via a private or semipublic sewage
27 disposal system or a sewage disposal system which is owned
28 by a city, a sanitary district, or a designated and approved
29 management agency under the federal Water Pollution Control
30 Act, 33 U.S.C. § 1288. Human sewage disposal does not include
31 a portable or fixed tank or vessel holding untreated human
32 waste without secondary wastewater treatment.

33 (2) The requirement in subparagraph (1) does not apply if a
34 person occupying the building professes a religious principle
35 or tenet that prohibits the use of basic utilities and the

1 person would be exempt from compulsory education standards
2 if the person had a school-age child as provided in section
3 299.24.

4 EXPLANATION

5 BACKGROUND. This bill amends Code chapter 459, the
6 Animal Agriculture Compliance Act (Code section 459.101),
7 and specifically subchapter II which provides for air
8 quality regulations. The bill includes a definition of
9 "residence" which is subject to a number of separation distance
10 requirements relating to the construction or expansion of a
11 confinement feeding operation structure (Code sections 459.202
12 and 459.203), the application of liquid manure (Code section
13 459.204), and the stockpiling of manure originating from a
14 confinement feeding operation (Code sections 459.204B and
15 459.205).

16 DEFINITION OF RESIDENCE. The bill provides that a residence
17 is a building that is used as a place of human habitation on
18 a permanent and frequent basis, is not readily mobile, and is
19 assessed and taxed as real property. In addition, it must meet
20 the following two criteria:

21 First, it must be used as a domicile by being occupied by
22 humans for more than six months in the last two years and
23 cannot have been moved to its current location within the
24 previous six months. However, a person may overcome these
25 requirements by proving that it is the person's permanent home
26 and that person returns to the building after any temporary
27 absence.

28 Second, the building is permanently connected to a basic
29 utility that normally provides for the uninterrupted delivery
30 of electricity, drinking or sanitary water, and human sewage
31 disposal. However, a person is not required to comply with
32 these requirements if a person occupying the house professes a
33 religious principle or tenet that prohibits the use of basic
34 utilities.

35 PENALTIES. A person who violates an applicable separation

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1 distance required in Code chapter 459 for a residence is
2 subject to a civil penalty established according to a schedule
3 established by the environmental protection commission not to
4 exceed \$10,000 (Code sections 455B.109 and 459.602).